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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 1:14-CV-00954

STUDENTS FOR FAIR  
ADMISSIONS, INC.,

Plaintiffs,

vs.

UNIVERSITY OF NORTH  
CAROLINA, et al.,

Defendants.

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DEPOSITION  
OF  
PETER ARCIDIACONO

THIS DEPOSITION CONTAINS HIGHLY CONFIDENTIAL AND  
PROPRIETARY INFORMATION AND IS SUBJECT TO A PROTECTIVE  
ORDER RESTRICTING PUBLIC DISCLOSURE OF ITS CONTENTS

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TAKEN AT THE OFFICES OF:  
THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL  
222 East Cameron Avenue  
110 Bynum Hall  
Chapel Hill, NC 27514

06-29-18  
9:28 A.M.

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Court Reporter

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1           A.    When we ---

2           Q.    --- to perform it on a different data  
3 set?

4           A.    Well, we had always intended to be doing  
5 it the -- the same way, and it was through  
6 producing the code for the rebuttal -- the code  
7 for reproduction that we realized that we had the  
8 wrong sample there.

9           Q.    Aside from -- from that error, did you  
10 make any other changes to your report?

11          A.    No.

12          Q.    And have you discovered any other errors  
13 in your January report at any time since?

14          A.    Not that I recall.

15          Q.    Okay. And any errors that you've seen  
16 since that time in either your April or the recent  
17 June report?

18          A.    Not that I -- not that I recall.

19          Q.    And over the course of your retention  
20 were you asked to provide an opinion on any matter  
21 that is not reflected in your report?

22          A.    No.

23          Q.    And were you asked to perform any  
24 assignments, other than those that you summarized  
25 in paragraph one of your January report?

1           A.     Well ---

2                         MR. STRAWBRIDGE:   Object to the  
3     form of the question.

4           A.     Was I asked to perform any assignments?

5           Q.     (Mr. Fitzgerald)   Yes.

6           A.     Well, yes, in that I was -- had to  
7     include Rick Kahlenburg's race-neutral  
8     simulations.

9           Q.     Okay.   And we'll come back to that in a  
10    moment.   But aside from that, any other  
11    assignments not reflected in your reports?

12          A.     Not that I recall.

13          Q.     And were you asked to perform any work  
14    as part of your engagement that you declined to  
15    perform?

16          A.     No.

17          Q.     And did you perform work to support or  
18    test opinions that ultimately did not make it into  
19    your report?

20          A.     Not that I recall.

21          Q.     And I take it you're not planning to  
22    offer any opinion about whether race conscious  
23    admissions policies at Carolina results in what is  
24    known as mismatch?

25          A.     Well, that's not part of this report.

1           Q.     Okay. And you're not planning to offer  
2 an opinion at -- on that topic at trial?

3                   MR. STRAWBRIDGE: Object to the  
4 form of the question.

5           A.     Only if you ask me about it.

6           Q.     (Mr. Fitzgerald) And assuming all my  
7 questions will be predicated on my not asking you,  
8 with that standing assumption which is safe,  
9 you're not planning to offer an opinion that  
10 Carolina engaged in so called racial balancing as  
11 part of the admissions process ---

12          A.     That's correct.

13          Q.     --- correct? And you're not planning to  
14 offer an opinion or any statistical evidence as to  
15 whether or not Carolina has a floor for admissions  
16 for African Americans or other URMs. Is that  
17 correct?

18          A.     That's correct.

19                   MR. STRAWBRIDGE: Object to the  
20 form of the question.

21          Q.     (Mr. Fitzgerald) And you're not  
22 planning to offer any opinion that Carolina uses  
23 quotas or URM targets concerning the race it  
24 admits?

25                   MR. STRAWBRIDGE: Object to the

1 form of the question.

2 A. That's correct.

3 Q. (Mr. Fitzgerald) And you're not  
4 planning to offer an opinion as to whether  
5 Carolina engages in intentional discrimination  
6 against Asian Americans, correct?

7 A. That's correct.

8 Q. And in your January report you discussed  
9 the school group review process. You are not  
10 planning to offer any opinions about school group  
11 review, correct?

12 A. That's correct.

13 Q. And you're not offering any opinion or  
14 planning to offer any opinion that Carolina uses  
15 its wait list to effect a racial composition of  
16 admits, correct?

17 MR. STRAWBRIDGE: Object to the  
18 form of the question.

19 A. That's correct.

20 Q. (Mr. Fitzgerald) And you would agree  
21 that Carolina allows applicants to apply via early  
22 action, correct?

23 A. Correct.

24 Q. And early action is a program at  
25 Carolina that allows the applicant to apply early

1 but does not bind the applicant to matriculate at  
2 Carolina if offered admission, correct?

3 A. Correct.

4 Q. And you're not offering any -- you're  
5 not planning to offer any opinion that Carolina  
6 considers applications it receives through early  
7 action differently than those it receives through  
8 regular decision, correct?

9 A. No. So ---

10 Q. No?

11 A. --- early action is one of the variables  
12 that we control for in our model and there is  
13 evidence that there's a preference for people who  
14 apply early.

15 Q. Okay. Do you -- is it your  
16 understanding that the process that they file,  
17 when reviewing applications, early action is  
18 different than the process by which applications  
19 under regular decision are reviewed?

20 A. It's different in the -- potentially in  
21 the sense that the bar may be different at --  
22 that's -- can be reflected in the estimation of my  
23 models, but that would be the -- but the  
24 evaluation of the applicants themselves is similar  
25 -- scored on the same ratings and so on.

1 Q. And are you going -- planning to offer  
2 any opinion that to the extent there's a  
3 difference in how early action applicants are  
4 considered versus regular decision, that that is  
5 motivated by race in any way?

6 MR. STRAWBRIDGE: Object to the  
7 form of the question.

8 A. Sorry. Can you repeat the question?

9 Q. (Mr. Fitzgerald) To the extent that you  
10 see a difference in the admission rates for early  
11 action applicants versus regular decision  
12 applicants, are you offering any opinion that that  
13 difference is motivated by race in any way?

14 A. No.

15 Q. And do you understand that Caroline  
16 Hoxby appears to address a different question in  
17 her reports than you do?

18 MR. STRAWBRIDGE: Object to the  
19 form of the question.

20 A. That's correct.

21 Q. (Mr. Fitzgerald) Okay. What question  
22 do you understand her to be addressing?

23 A. Well, she has a number of questions.  
24 Some that are directly related to these questions  
25 about, you know, the role of race in the

1 admissions process. She also discusses how  
2 formulaic the admissions process is and then race  
3 control analysis, and the race control analysis  
4 was not something that was part of my purview.

5 Q. Okay. And you understand Professor  
6 Hoxby to be looking at the question of the impact  
7 of race upon admissions decisions across the  
8 entire applicant group, whether it involves URMs  
9 or non-URMs and whether or not it involves  
10 applicants that you viewed as nearly certain to be  
11 admit -- admitted or nearly certain to be  
12 rejected?

13 MR. STRAWBRIDGE: Object to the  
14 form of the question.

15 A. So, I'm sorry. I kind of need you to  
16 state it one more time.

17 Q. (Mr. Fitzgerald) Okay. Do you  
18 understand that Professor Hoxby was looking at the  
19 question of the impact of race upon admissions  
20 decisions across the entire applicant group, which  
21 includes both URMs and non-URMs as well as folks  
22 that you viewed as being either certain -- nearly  
23 certain to be admitted or rejected?

24 MR. STRAWBRIDGE: Same objection.

25 A. Yes, but I would say that my analysis



1 does the same thing.

2 Q. (Mr. Fitzgerald) Doesn't your analysis  
3 leave out -- all your models leave out applicants  
4 that you view as being nearly certain to be  
5 admitted or rejected?

6 A. The role that race can play for those  
7 applicants, my admission rates are over 97  
8 percent, is by definition minimal. So -- and --  
9 and also I do look at it in -- in my reply report.

10 Q. And did you run any models across the  
11 entire admissions process that included the  
12 students that you thought were nearly certain  
13 admits or certain rejects?

14 A. Yes.

15 Q. Which -- which test did you run across  
16 the entire applicant core?

17 MR. STRAWBRIDGE: Object to the  
18 form of the question.

19 A. So in my final report I respond to her  
20 criticism of not including them and show how that  
21 if you include them and control for the fact  
22 they're in one of these special recruiting  
23 categories, but it doesn't affect my conclusions.  
24 It doesn't affect the fit of the model.

25 Q. (Mr. Fitzgerald) You mentioned

1 Mr. Kahlenburg and you did some work with  
2 Mr. Kahlenburg in this case, correct?

3 A. I did some work for him, yes.

4 Q. Okay. Had you worked with him before  
5 this case?

6 A. No.

7 Q. Okay. Are you working with  
8 Mr. Kahlenburg as well on the Harvard matter?

9 A. Yes, sorry. Should have clarified that,  
10 yes.

11 Q. But putting those two matters ---

12 A. Yeah.

13 Q. --- aside, have you done any work with  
14 Mr. Kahlenburg on any other matter?

15 A. No. I mean, we've been at a -- at a  
16 conference together.

17 Q. Okay.

18 A. But that -- that's the extent.

19 Q. Is he involved in the Sanders versus  
20 State Bar of California matter?

21 A. No.

22 Q. Okay. And tell us what you did you for  
23 Mr. Kahlenburg.

24 A. So, Mr. Kahlenburg is interested in  
25 race-neutral policies, so he would propose

1 particular race-neutral policies, and I would be  
2 in charge of showing how those policies -- what  
3 effects those policies have.

4 Q. Okay. And who constructed the models to  
5 test those race-neutral policies that he would  
6 propose?

7 A. Who constructed the models?

8 Q. Yeah.

9 A. Well, so he -- from when he was doing  
10 race-neutral analysis based on solely applicants  
11 to UNC, then he was using my models adjusted to  
12 particular -- particular ways.

13 But there were also cases where he was  
14 responding to some of the work that Hoxby did and  
15 so taking some of Hoxby's models and then  
16 expanding what was happening there.

17 Q. Okay. And so starting with the first  
18 category, your models that were adjusted for his  
19 work, who made the adjustments to those models?

20 A. Well, my team did.

21 Q. Okay. But who directed -- who directed  
22 what adjustments should be made? Did that come  
23 from Mr. Kahlenburg or come from you?

24 A. So Mr. Kahlenburg would say, "I -- I  
25 want to give, you know, a SCS bump of this amount.

1 Tell me what happens in that case." And so we put  
2 that in the model and show what would happen.

3 Q. Okay. So just -- so I can understand it  
4 more simply myself, did the model change or was he  
5 just saying put this different data input into the  
6 model?

7 A. So the way these models work is that  
8 there are -- we have them -- estimated the  
9 probability of being admitted.

10 Q. Okay.

11 A. And there are coefficients associated  
12 with different variables there. And those  
13 different variables have different effects on the  
14 probability of admission.

15 So when we talk about what's going to  
16 happen here is that we -- instead of -- for  
17 example, there's a coefficient on first generation  
18 college. First generation college feeds into your  
19 probability of being admitted and if we raise that  
20 coefficient, that's going to change your  
21 probability of being admitted.

22 So that's the extent of what's going on.  
23 We're talking about raising particular  
24 coefficients or identifying particular  
25 combinations of characteristics and saying okay,

1 we're going to give everybody a bump of a  
2 particular size.

3 Q. And who decided which coefficients to  
4 raise?

5 A. Mr. Kahlenburg.

6 Q. Okay. And did you perform these --  
7 these simulations yourself or people on your team?

8 A. Our team.

9 Q. Okay. Who was your team?

10 A. So ---

11 MR. STRAWBRIDGE: I just caution  
12 the witness in answering this question. I don't  
13 think the question calls for this. Do not -- do  
14 not disclose the identity of any consulting  
15 witness whose work you have not relied upon in  
16 this case. And I just -- can we go off the record  
17 for a second? I just have a ---

18 MR. FITZGERALD: Sure.

19 MR. STRAWBRIDGE: --- a question  
20 because it's going to come up in the other  
21 depositions.

22 (Off-record: 9:58 a.m. to 9:59 a.m.)

23 Q. (Mr. Fitzgerald) In terms of -- let me  
24 talk to you about your work and also what it is  
25 you expect to testify about at trial. Did you

1       come up with the types of race-neutral  
2       alternatives to propose in this matter?

3           A.    No.

4           Q.    And did you determine the parameters of  
5       each particular race-neutral alternative?

6           A.    No.

7           Q.    And I take it you're not planning to  
8       opine as to whether the Univer -- simulations that  
9       Mr. Kahlenburg had you -- had you and your team  
10      perform are the right ones, correct?

11          A.    Correct.

12          Q.    And I take it that you're not opining as  
13      to the results of these simulations, correct?

14          A.    Correct.

15          Q.    And I take it that you're not opining as  
16      -- as to how the difference in diversity should be  
17      evaluated, correct?

18          A.    Correct.

19          Q.    And I take it that you're not opining as  
20      to whether a particular race-neutral alternative  
21      is workable, correct?

22          A.    Correct.

23          Q.    And I take it you're not opining with  
24      respect to how academic preparedness should be  
25      measured, correct?